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Attorney for Petitioner
JAY STEWART MILLER

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAY STEWART MILLER,)	NO. CIV S-00-0757 LKK GGH P
)	
Petitioner,)	STIPULATION AND ORDER EXTENDING
)	DEADLINE FOR PETITIONER'S CLOSING
v.)	POST-HEARING BRIEF AND PERMITTING
)	SUPPLEMENTAL LETTER BRIEF BY
CAL TERHUNE, et al.,)	RESPONDENTS
)	
Respondents.)	
)	
_____)	

Petitioner, JAY STEWART MILLER, and respondents, CAL TERHUNE, et al., by and through their respective counsel, hereby agree and stipulate as follows:

1. Respondent's post-hearing brief was filed on April 28, 2005. Following filing of petitioner's closing post-hearing brief, the case will be submitted for decision.

2. As noted in respondent's brief, the California Supreme Court is currently considering two cases which present the question whether, and to what extent, evidence of mental illness and/or intoxication may support the subjective element of imperfect self-defense. People v. Wright, No. S119067; People v. Gregory, No.

1 S110450. Although disposition of these cases will not directly govern
2 disposition of petitioner's ineffective assistance of counsel claim,
3 they may bear on the analysis. The parties agree that supplemental
4 briefing on the impact, if any, of Wright and Gregory will be
5 appropriate in any case. Both cases have been fully briefed and argued
6 in state court, and currently await disposition.

7 3. The parties therefore agree that the deadline for
8 petitioner's closing post-hearing brief should be extended until after
9 the California Supreme Court decides Wright and Gregory. Respondent
10 should thereafter be permitted to submit a letter brief limited to the
11 applicability, if any, of those decisions.

12 4. The following schedule is proposed: Petitioner's closing
13 post-hearing brief shall be filed thirty days after the California
14 Supreme Court files its opinion(s) in Wright and Gregory. If the state
15 cases are decided on different days, petitioner shall file his closing
16 post-hearing brief thirty days after the later-decided opinion is
17 filed. Respondents may file a letter brief, limited to the
18 applicability of Wright and Gregory, fourteen days after petitioner
19 files his closing post-hearing brief.

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5. Counsel for respondent has authorized counsel for petitioner to sign this stipulation on his behalf.

Dated: April 29, 2005

Respectfully submitted,

QUIN DENVIR
Federal Defender

/s/ Allison Claire
ALLISON CLAIRE
Assistant Federal Defender
Attorney for Petitioner
JAY STEWART MILLER

Dated: April 29, 2005

BILL LOCKYER
Attorney General of the State of
California

/s/ Clifford E. Zall
CLIFFORD E. ZALL
Deputy Attorney General
Attorney for Respondents

O R D E R

Pursuant to the stipulation of the parties and for good cause shown, petitioner's closing post-hearing brief shall be filed within thirty days after the California Supreme Court files its opinions in both People v. Wright, No. S119067, and People v. Gregory, No. S110450. Respondent may file a letter brief addressing the applicability, if any, of Wright and Gregory, within 14 days after the filing of petitioner's closing post-hearing brief. The case will then be submitted for preparation of Findings and Recommendations.

IT IS SO ORDERED.

DATED: 5/4/05

/s/ Gregory G. Hollows

HON. GREGORY G. HOLLOWES
United States Magistrate Judge

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